

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 10(e)(1) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48, D.C. Official Code § 44-509(e)(1)), Mayor's Order 98-137, dated August 20, 1998, section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.04), Mayor's Order 99-68, dated April 28, 1999, and Reorganization Plan No. 4 of 1996, hereby gives notice of the intent to adopt the following amendments to Chapter 32 (Civil Infractions) of Title 16 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register and upon completion of the sixty (60) day Council period of review if the Council does not act earlier to adopt a resolution approving the rules. The amendments prescribe civil infraction fines for violations of the law governing the licensing of hospitals.

Chapter 36 (Civil Infractions) of Title 16 DCMR is amended by adding a new section 3606 and repealing the current section 3606 to read as follows:

3606 LICENSING OF HOSPITALS

3606.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR 2002 (operating a hospital without a license);
- (b) 22 DCMR 2002.17 (failure to meet the minimum requirements for insurance);
- (c) 22 DCMR 2002.18 (failure to comply with Certificate of Need requirements);
- (d) 22 DCMR 2003 (failure to comply with certificate requirements, including Certificate of Occupancy and fire approval);
- (e) 22 DCMR 2006.1 (failure to obtain a permit before moving the hospital or part of the hospital from the licensed premises);
- (f) 22 DCMR 2007.2 (failure to permit the Director entry to investigate complaints);
- (g) 22 DCMR 2014.1 (failure to have a governing body that is authorized and responsible for the direction and policy of the hospital);

- (h) 22 DCMR 2015.1 (failure to have an administrator who is responsible for planning, organizing and directing the day to day operation of the hospital);
- (i) 22 DCMR 2015.2 (failure of the administrator to be present in the hospital forty (40) hours per week during regular business hours and failure of the administrator to be responsible for the day to day operation twenty-four (24) hours a day seven (7) days of a week);
- (j) 22 DCMR 2016.1 (failure to maintain a sufficient number of staff with appropriate qualifications, skills and training twenty-four (24) hours a day);
- (k) 22 DCMR 2017 (failure to comply with requirements on health examinations for those involved in direct patient care, except that sections 2017.5 and 2017.8 are class 2 offenses);
- (l) 22 DCMR 2020 (failure to comply with requirements on availability of physicians);
- (m) 22 DCMR 2024 (failure to comply with requirements on patient care and treatment);
- (n) 22 DCMR 2027 (failure to comply with requirements on restraint and seclusion of patients);
- (o) Section 6(c) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-505(c)) (failure to allow authorized government officials to enter premises to conduct an inspection); and
- (p) Section 6(d)(1) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-505(d)(1)) (failure to notify the Mayor of the loss of accreditation or federal certification within five (5) calendar days of the loss).

3606.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR 2000.2 (failure to comply with requirements of Medicare, the Joint Commission, medical, nursing and public health standards);

- (b) 22 DCMR 2000.3 (failure to deliver services in compliance with the laws of the District when the contract entity delivering the services is not licensed in the District);
- (c) 22 DCMR 2002.2 (failure to submit license application timely, to submit the appropriate license fee, to state the offered services in the application or the number of beds provided or other information required);
- (d) 22 DCMR 2002.4 (failure to list certificate approvals on license application);
- (e) 22 DCMR 2002.5 (failure to submit license renewal application no later than sixty (60) days prior to expiration date and to submit license renewal fee);
- (f) 22 DCMR 2002.6 (failure to pay a late application fee);
- (g) 22 DCMR 2002.8 (failure to inform the Director of a change in operation within thirty (30) days after the change);
- (h) 22 DCMR 2002.9 (failure to return a license to the Director when a license is suspended, revoked, not renewed, forfeited or when the operation voluntarily ceases operation);
- (i) 22 DCMR 2002.10 (transfer of a license to a person or premises not named in the license application);
- (j) 22 DCMR 2007.3 (failure to submit a plan of correction no later than ten (10) days after receipt of a complaint investigation report);
- (k) 22 DCMR 2007.7 (failure to correct deficiencies within thirty (30) days of receipt of the complaint investigation report);
- (l) 22 DCMR 2014.2 (failure of the governing body to fulfill its responsibilities);
- (m) 22 DCMR 2015.3 (failure of the administrator to fulfill his or her responsibilities);
- (n) 22 DCMR 2016.2 (failure to ensure and maintain evidence of staff and contract staff licensure, registration, certification or other credentials and to have procedures to verify current status);

- (o) 22 DCMR 2016.3 (failure to report the termination of a licensed professional to the applicable professional board when the termination is due to a job-related incident);
- (p) 22 DCMR 2017.5 (failure to maintain on file a report of each health examination of employees);
- (q) 22 DCMR 2017.8 (failure to maintain and make available for examination by the Department a copy of certification that a direct patient care employee who has been ill can return to work);
- (r) 22 DCMR 2018 (failure to comply with requirements on staff training);
- (s) 22DCMR 2019 (failure to comply with requirements on the responsibilities of medical staff);
- (t) 22 DCMR 2021 (failure to comply with requirements on the responsibilities of nursing staff);
- (u) 22 DCMR 2022 (failure to comply with requirements on patient rights);
- (v) 22 DCMR 2023 (failure to establish and implement a written process that promptly addresses grievances by patients and their representatives);
- (w) 22 DCMR 2025 (failure to comply with requirements on errors in provision and administration of medications);
- (x) 22 DCMR 2026 (failure to comply with requirements on separate patient care);
- (y) 22 DCMR 2028 (failure to comply with requirements on patient nutrition);
- (z) 22 DCMR 2029 (failure to comply with requirements on discharge planning);
- (aa) 22 DCMR 2030 (failure to comply with requirements on recordkeeping);
- (bb) 22 DCMR 2031 (failure to comply with requirements on physical plant standards);

- (cc) 22 DCMR 2032 (failure to comply with requirements on Medicare/Medicaid participation);
- (dd) 22 DCMR 2033 (failure to comply with provisions on prohibitions against sharing care and treatment areas);
- (ee) 22 DCMR 2034 (failure to comply with provisions on construction standards);
- (ff) 22 DCMR 2035 (failure to comply with requirements on maintaining a safe environment);
- (gg) 22 DCMR 2036 (failure to comply with requirements on maintaining building systems for the safety, comfort and well-being of patients);
- (hh) 22 DCMR 2037 (failure to comply with requirements on housekeeping and maintenance); and
- (ii) Section 8 of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-507) (failure to comply with requirements on clinical privileges).

3606.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR 2002.3 (failure to provide enumerated information on license application);
- (b) 22 DCMR 2002.19 (failure to post the license in a conspicuous place at all times); and
- (c) 22 DCMR 2008.2 (failure to submit requisite information to the Director when requesting a variance).

Comments on this proposed rulemaking should be submitted, in writing, to Feseha Woldu, Ph.D., Senior Deputy Director, Health Regulation and Licensing Administration, Department of Health, at 717 14th Street, Suite 600, Washington, DC. 20005, within thirty (30) days of the date of publication of this notice in the D.C. Register. Additional copies of this rulemaking are available from the above address.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF PROPOSED RULEMAKING

The Chancellor of the District of Columbia Public Schools, pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007 (Act), effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172) (2008 Supp.), and Mayor's Order 2007-186 (August 10, 2007), hereby gives notice of the intent to adopt this rule, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register* or upon approval of the rule by the Council whichever occurs later. The rule will amend Title 5, Chapter 25 of the *D.C. Municipal Regulations* (DCMR), to establish revised student discipline rules for the District of Columbia Public Schools (DCPS). The proposed rules do not make substantial revisions to the existing rules for proposed discipline of a student with a disability. DCPS welcomes comments specific to that subject to inform future revisions to that section.

Chapter 25 of Title 5 of the DCMR is amended to read as follows:

CHAPTER 25 STUDENT DISCIPLINE

2500	GENERAL POLICY
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2502	GROUND FOR DISCIPLINARY ACTION
2503	POLICY FOR DISCIPLINARY ACTIONS
2504	POLICY FOR SUSPENSIONS AND EXPULSIONS
2505	PROCEDURES FOR SUSPENSIONS AND EXPULSIONS
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2508	REVIEW BY THE CHANCELLOR
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2510	PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY
2599	DEFINITIONS

2500 GENERAL POLICY

- 2500.1 It is the policy of the Chancellor that a safe environment conducive to learning shall be maintained in the D.C. Public Schools (DCPS). To build and maintain this environment, DCPS shall provide students, families, and staff with clear expectations and rules for appropriate school behavior. These rules must balance the responsibilities and rights of individuals and the responsibilities and rights of the school community. These rules must reflect the individual's responsibility for contributing to a safe environment conducive to learning and the need for mutual respect and cooperation among all segments of the school community.
- 2500.2 DCPS is committed to helping students learn these expectations and rules for appropriate school behavior; DCPS also will work with students to correct

inappropriate behavior. When students' behavior disrupts the school community's safe learning environment, DCPS will enable and encourage students to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.

2500.3 The administration of disciplinary actions will focus on changing and managing inappropriate behavior. To that end all available resources should be utilized, including preventive and responsive interventions that support students' needs.

2500.4 DCPS will encourage intervention and remediation strategies in addition to disciplinary consequences at all stages of the disciplinary process. DCPS will also encourage staff to involve family members in efforts to determine the causes of misbehavior and in the work to support appropriate school behavior.

2500.5 Options for intervention and remediation shall include, but not be limited to:

- (a) Anger management;
- (b) Attendance intervention plans;
- (c) Behavior contract;
- (d) Behavior log/behavior progress report;
- (e) Behavior redirection;
- (f) Community service;
- (g) Conflict resolution;
- (h) Crime awareness/prevention programs;
- (i) Diverse instructional strategies;
- (j) In-school program restructuring (schedule change);
- (k) Individual or group counseling;
- (l) Intervention by guidance counselor or mental health professional;
- (m) Mediation, including teacher/student mediation and multi-party dispute resolution;
- (n) Mentoring;
- (o) Parent conference;

- (p) Parent observation of student;
- (q) Peer court;
- (r) Positive feedback for appropriate behavior;
- (s) Positive behavior supports
- (t) Problem solving conferences;
- (u) Referral to community based organizations;
- (v) Referral to substance abuse counseling service;
- (w) Rehabilitative programs;
- (x) Restitution;
- (y) Social skills instruction;
- (z) Student support team meeting; and
- (aa) Other appropriate intervention strategies.

2500.6 DCPS decisions regarding student behavior and discipline should respect individuals, balance the interests of the school community, and minimize disruption of academic instruction.

2500.7 DCPS shall provide a fair and consistent approach to student discipline, within the context of students' rights and responsibilities, as further articulated in these rules.

2500.8 Disciplinary consequences should be logical, appropriate, and instructive. Disciplinary measures shall consider factors such as:

- (a) The nature of the infraction;
- (b) Circumstances relating to the infraction;
- (c) The age of the student;
- (d) The student's previous behavioral history;
- (e) Whether injury occurred;
- (f) Whether a weapon or controlled substance was involved;

- (g) The safety of other students and staff;
- (h) The educational needs of other students;
- (i) The educational needs of the student to be disciplined; and
- (j) Extenuating circumstances.

2500.9 Disciplinary responses, as defined in § 2502 of this chapter, shall be aimed, to the extent practicable under the circumstances, at intervention and remediation to enable students to continue their instructional program.

2500.10 Whenever possible, staff are encouraged to implement disciplinary consequences in a progression, beginning with the least severe appropriate response.

2500.11 Disciplinary responses for intervention and remediation shall include, but not be limited to, the following strategies:

- (a) Verbal redirection/reprimand;
- (b) Teacher/student conference;
- (c) Parental contact (written or by phone);
- (d) Parent conference;
- (e) Temporary removal of student from classroom;
- (f) In-school disciplinary action;
- (g) Behavior contract;
- (h) Exclusion from extracurricular activities;
- (i) Grade reduction for academic dishonesty only;
- (j) On-site short-term suspension, (one (1) – five (5) days for secondary students or one (1) – three (3) days for elementary students);
- (k) Off-site short-term suspension, except in response to unexcused tardiness or absence;
- (l) Off-site medium-term suspension (six (6) – ten (10) days), except in response to unexcused tardiness or absence;

(m) Off-site long-term suspension (eleven (11)- ninety (90) days), except in response to unexcused tardiness or absence; and

(k) Expulsion (off-site suspension for one calendar year).

2500.12 Students, teachers, and parents shall receive adequate and timely notification of student infractions and disciplinary action.

2500.13 A copy of the DCPS policies and rules regarding student discipline should be distributed or made available to students, teachers, and parents within thirty (30) days after the start of each school year.

2501 APPLICABILITY

2501.1 The provisions of this chapter shall be enforceable by school authorities, both during regularly scheduled school hours as well as other times and places, including but not necessarily limited to the following:

- (a) When the student is on school grounds;
- (b) When the student is on or off school grounds participating in or attending any function or activity, including field trips, class trips, extracurricular activities, or athletic contests, that are sponsored by or are under the auspices of DCPS;
- (c) When the student is off school grounds and traveling on transportation provided by DCPS and the activity involves any conduct prohibited by this chapter;
- (d) When the student commits a prohibited offense that occurs during before-school or after-school programs; and
- (e) When a student commits a prohibited offense off school grounds or outside regular school hours that demonstrably causes a significant disruption to the school environment.

2502 GROUNDS FOR DISCIPLINARY ACTION

2502.1 Tier I behaviors include those behaviors that may be disruptive in the academic environment but do not harm others. Tier I behaviors receive classroom-level consequences that may be elevated to administrative intervention if they are not successfully abated by the teacher or the appropriate school level committee.

- (a) The following behaviors shall be considered Tier I behaviors:
 - (1) Refusal to present school-issued identification upon request;

- (2) Noncompliance with the dress code;
 - (3) Attending class without required class materials or assigned work;
 - (4) Disengagement from classroom learning;
 - (5) Behaviors that disrupt or interfere with classroom teaching and learning;
 - (6) Unexcused lateness for school or class;
 - (7) Inappropriate displays of affection;
 - (8) Excessive noise in the classroom, hall, or school building;
 - (9) Running in the classroom, hall, or school building;
 - (10) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
 - (11) Directing profanity or obscene/offensive gestures toward peers;
 - (12) Refusal to comply with staff instructions, or classroom or school rules; and
 - (13) Any other conduct that may be disruptive in the academic environment but does not harm others.
- (b) Disciplinary responses for Tier I behaviors shall include:
- (1) Verbal redirection or reprimand;
 - (2) Teacher/student conference;
 - (3) Parental contact in writing or by phone;
 - (4) Teacher/parent conference;
 - (5) Temporary removal of student from classroom;
 - (6) In-school disciplinary action;
 - (7) Behavior contract; and

- (8) Other school-based consequences as approved by the Instructional Superintendent.

2502.2

Tier II behaviors include those behaviors that may be disruptive in the academic environment, involve school property, or may cause minor harm to others. Tier II behavioral infractions result in school-based interventions and administrative consequences.

- (a) The following behaviors shall be considered Tier II behaviors:
 - (1) Using computer/office equipment without permission;
 - (2) Intentional misuse of school equipment/supplies/facilities;
 - (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
 - (4) Disruptive behavior on school bus or public transportation (metro bus/rail) directly on the way to or from school;
 - (5) Leaving classroom without permission;
 - (6) Unexcused absence from class;
 - (7) Unauthorized presence in hallway during class time;
 - (8) Unexcused absence from school;
 - (9) Inappropriate or disruptive physical contact between students;
 - (10) Directing profanity or obscene/offensive gestures toward staff;
 - (11) Throwing objects that may cause injury or damage to property;
 - (12) Any behavior or other conduct that may be disruptive in the academic environment, involve school property, or may cause minor harm to others; and
 - (13) Documented pattern of persistent Tier I behavior.
- (b) Disciplinary responses for Tier II behaviors shall include:
 - (1) Verbal redirection or reprimand;
 - (2) Teacher/student or administrator/student conference;

- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary removal of student from classroom;
- (6) In-school disciplinary action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by the Instructional Superintendent.

2502.3 Tier III behaviors include those behaviors which have the potential to disrupt the school environment, cause harm to self or others, or destroy school property. In addition to lesser consequences, Tier III behavioral infractions may result in either on-site or off-site suspension.

- (a) The following behaviors shall be considered Tier III behaviors:
 - (1) Inappropriate use of DCPS computer or network (restricted websites, offensive emails);
 - (2) Sale or distribution of any item without authorization;
 - (3) Possession or distribution of obscene or pornographic material on school premises;
 - (4) Possession or use of tobacco;
 - (5) Use of alcohol;
 - (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
 - (7) Unauthorized possession, use, or distribution of over-the-counter medication;
 - (8) Verbal, written, or physical threat to person or property (including intimidating postures);
 - (9) Obscene, seriously offensive, or abusive language or gestures;
 - (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;

- (11) Gambling;
- (12) Communicating slurs based on race, ethnicity, color, national origin, religion, gender, sexual orientation, or disability, including derogatory sexual language;
- (13) Engaging in sexual acts on school premises or at school-related functions;
- (14) Leaving school without permission;
- (15) Academic dishonesty;
- (16) Forgery;
- (17) Lying to or giving misleading information to school staff;
- (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
- (19) Engaging in behavior that demonstrates gang/neighborhood crew affiliation (displaying clothing or gestures associated with gangs);
- (20) Hazing;
- (21) Bullying, or using humiliating or intimidating language or behavior, including Internet bullying;
- (22) Possession of tools or instruments which school administrators deem could be used as weapons;
- (23) Engaging in reckless behavior that may cause harm to self or others;
- (24) Extortion;
- (25) Fighting where there is no injury and no weapon;
- (26) Any behavior or other conduct which has the potential to disrupt the school environment, cause harm to self or others, or destroy school property; and
- (27) Documented pattern of persistent Tier II behavior.

- (b) Disciplinary responses for Tier III behaviors shall include:
- (1) Verbal redirection or reprimand;
 - (2) Teacher/student conference or administrator/student conference;
 - (3) Parental contact (written or by phone);
 - (4) Parent conference;
 - (5) Temporary removal of student from classroom;
 - (6) Behavior contract;
 - (7) In-school disciplinary action;
 - (8) Grade reduction for academic dishonesty;
 - (9) On-site short-term suspension;
 - (10) Off-site short-term suspension, except in response to unexcused tardiness or absence; and
 - (11) Off-site medium-term suspension, except in response to unexcused tardiness or absence.

2502.4 Tier IV behaviors include those behaviors which cause significant disruption to the school environment, cause harm to self or others, or destroy school property. Tier IV behaviors result in off-site suspension.

- (a) The following behaviors shall be considered Tier IV behaviors:
- (1) Acts of vandalism, destruction of property, or graffiti (tagging);
 - (2) Documented theft of school or personal property without force;
 - (3) Interfering with or disrupting school programs;
 - (4) Trespassing;
 - (5) Tampering with, changing, or altering an official record or document of a school;

- (6) Persistent harassment based on race, color, national origin, sex, real or perceived gender, sexual orientation, age, religion, or disability;
 - (7) Lewd or indecent public behavior or sexual misconduct;
 - (8) Sexual harassment;
 - (9) Retaliation for reporting harassment and sexual harassment;
 - (10) Fighting which creates substantial risk of or results in minor injury;
 - (11) Inciting others to violence or disruption;
 - (12) Activating false alarm;
 - (13) Contaminating food;
 - (14) Possession of a replica or imitation of a weapon (including water guns);
 - (15) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
 - (16) Any behavior or conduct which causes significant disruption to the school environment, causes harm to self or others, or destroys school property; and
 - (17) Documented pattern of persistent Tier III behavior.
- (b) Disciplinary responses for Tier IV behaviors include:
- (1) Off-site short-term suspension , except in response to unexcused tardiness or absence;
 - (2) Off-site medium-term suspension, except in response to unexcused tardiness or absence; and
 - (3) Off-site long-term suspension, except in response to unexcused tardiness or absence.

2502.5 Tier V behaviors include those behaviors which are illegal, cause substantial harm to self or others, or cause major disruption to the school environment. Tier V behaviors result in off-site suspension or expulsion.

- (a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of exceptional misconduct at other schools;
- (2) Vandalism/destruction of property over \$500;
- (3) Selling or distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The possession or distribution of alcohol;
- (5) The possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 *et seq.* (2001);
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
- (7) Possession of fireworks or explosives;
- (8) Theft or attempted theft using force, coercion, intimidation, or threat of violence;
- (9) Assault or physical attack on student or staff;
- (10) Fighting which results in a serious physical injury;
- (11) Participating in group fight which has been planned, causes major disruption to school day, or results in substantial bodily injury;
- (12) Using an article that is not normally considered a weapon to injure another individual;
- (13) Use, threatened use, or transfer of any weapon;
- (14) Use, possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
- (15) Any behavior that violates the Gun-Free Schools Act;
- (16) Deliberate acts that cause severe physical injury to another person(s).

- (17) Assault with a weapon;
 - (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
 - (19) Arson;
 - (20) Biohazard;
 - (21) Bomb threat;
 - (22) Any other intentional use of violence, force, coercion, threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
 - (23) Any other behavior that is illegal, causes substantial harm to self or others, or causes major disruption to the school environment; and
 - (24) Documented pattern of persistent Tier IV behavior.
- (b) Disciplinary responses for Tier V behaviors include:
- (1) Off-site long-term suspension, except in response to unexcused tardiness or absence; and
 - (2) Expulsion.
- (c) Weapons include, but are not limited to:
- (1) Weapons enumerated in D.C. Official Code § 22-4514 (2001);
 - (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);
 - (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
 - (4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);
 - (5) Air gun, bb gun, paintball gun;
 - (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);

- (7) Tear gas;
- (8) Explosives;
- (9) Slingshot;
- (10) Bullets;
- (11) Chemical weapon; and
- (12) Razorblade or razor.

2503 POLICY AND FOR DISCIPLINARY ACTIONS

- 2503.1 All disciplinary actions shall be effected pursuant to the rules in this Chapter. Disciplinary actions that do not involve removal from school may be effected through procedures established by the principal at each school.
- 2503.2 The Chancellor, at his or her discretion, may review and modify any proposed disciplinary action.
- 2503.3 Disciplinary responses should be assigned only after consideration of the factors involved in the inappropriate behavior as outlined in § 2500.8, and after consideration of intervention and remediation responses as outlined in § 2500.5.
- 2503.4 Disciplinary action for students with disabilities shall be imposed in compliance with § 2510 of these Rules.
- 2503.5 Records of all disciplinary action taken shall be maintained for each student in a student discipline file that is separate from the student's official record and cumulative file. Disciplinary records are primarily for the use of the school that the student attends. Disciplinary records shall be maintained by the school until the student is promoted to the next educational level, e.g., from elementary to secondary school.

2504 POLICY FOR SUSPENSIONS AND EXPULSIONS

- 2504.1 The policies and procedures described in § 2504 shall apply to all suspensions and expulsions.
- 2504.2 Off-site suspension and expulsion shall not be used in response to unexcused tardiness or absence.
- 2504.3 Principals shall consider all extenuating circumstances before recommending expulsion for students under thirteen years of age.

- 2504.4 A student may be suspended immediately pursuant to § 2505 if he or she is contributing to an emergency situation in a school. An emergency situation may exist either because general conditions in the school (e.g., a series of fires or false alarms; a manifestly high level of student tension; an increasing number of fights or physical attacks; a large number of abuses of property) or because the behavior of an individual student is so disruptive or dangerous that he/she poses a very real and immediate threat to the health and safety of other members of the school community, or to the ability of the school community or the school or portion thereof to continue normal operations.
- 2504.5 A student may be expelled from DCPS for the commission of an infraction as set forth in § 2502.5.
- 2504.6 Students who have been suspended or expelled shall not be eligible to participate in any school function for the duration of their suspension or expulsion. The only exceptions that may be authorized by the Chancellor or his or her designee shall be for system-wide testing, or College Board or admission examinations.
- 2504.7 In accordance with An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), all children of compulsory school age are required to attend school or receive an equivalent education approved by DCPS. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to suspension or expulsion from DCPS pursuant to this chapter.
- 2504.8 The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of the Chancellor's designee. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.
- 2504.09 A student who has been suspended or expelled shall have access to an education plan as follows:
- (a) If a student is suspended for fewer than eleven (11) days, the principal initiating the suspension shall provide an educational plan that meets the student's educational and disciplinary needs.
 - (b) If a student is suspended for eleven (11) days or more or expelled, the student shall be placed in an alternative educational setting.
- 2504.10 Restitution and/or school service may be required in any case involving school property (e.g., arson, vandalism, burglary, robbery). The amount of restitution or type of school service shall be determined by the Chancellor's designee.

- 2504.11 If a student's suspension or expulsion is for a period exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.
- 2504.12 Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been verbally contacted and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or guardian of a suspended student cannot be notified in person or by telephone,, the student must remain at school until the end of the school day.
- 2504.13 If the parent or guardian of a student who has been suspended cannot be verbally contacted before the next school day, and the student arrives at school, he or she must remain in the building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. Student may be segregated and must be appropriately supervised during this time.
- 2504.14 Except in cases of immediate emergency suspensions as defined in § 2504.4, students shall remain in their regular assigned classroom or education setting until the final determination of the suspension has been made.
- 2504.15 For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, the Chancellor's designee shall review the facts and circumstances regarding the student's suspension, expulsion, or withdrawal pending expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS, if any.

2505 PROCEDURES FOR SUSPENSIONS AND EXPULSIONS

- 2505.1 Authority to impose suspensions and expulsions is as follows:
- (a) On-site short-term suspension may only be authorized by the principal or the Chancellor's designee.
 - (b) Off-site short-term suspension may only be authorized by the principal or Chancellor's designee.
 - (c) Off-site medium-term suspension may be proposed by the principal and may be authorized only by the Chancellor's designee. The Chancellor's designee may modify the proposed action including rescission.

- (d) Off-site long-term suspension may be proposed by the principal and may be authorized only by the Chancellor's designee. The Chancellor's designee may modify the proposed action, including rescission.
- (e) Expulsion, except expulsions for violations relating to the Gun-Free Schools Act, may be proposed in writing by the principal to the Chancellor's designee and may be authorized only by the Office of Youth Engagement pursuant to the recommendation of the Chancellor's designee,
- (f) Expulsion for violations of the Gun-Free Schools Act may be approved only by the Chancellor.

2505.2 Any student who is to be suspended or expelled shall be given a conference with the school official responsible for making or approving the disciplinary action, prior to the suspension or expulsion. In the event that a student is suspended pursuant to § 2504.4 due to emergency conditions, the conference shall be held no more than three (3) school days after the suspension is initiated.

2505.3 The conference shall include a discussion of the following:

- (a) The grounds for disciplinary action as referred to in this chapter including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;
- (b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, as defined in this chapter, including a summary of the recommended disciplinary action;
- (c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;
- (d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;
- (e) A statement informing the student, or student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed discipline; and
- (f) The student's rights to an appeal pursuant to section 2505.13 or to a hearing pursuant to section 2505.14.

- (g) If the principal is recommending expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and the Chancellor's designee. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures, appeal rights, and the requirements for readmission.
- 2505.4 The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.
- 2505.5 A principal authorizing short-term suspension shall submit the authorization to the Chancellor's designee within one school day.
- 2505.6 A principal or school official proposing medium- or long-term suspension must immediately submit the proposal to the Chancellor's designee. The Chancellor's designee may authorize the proposed suspension or modify it to reduce the number of days suspended.
- 2505.7 A principal or school official proposing expulsion shall make a written recommendation for expulsion to the Chancellor's designee no more than one (1) school day after the expulsion conference. The principal's recommendation may be made based upon an initial recommendation from a teacher or other school official. The recommendation to expel shall be supported by sufficient written documentation to enable the Chancellor's designee to make an independent decision regarding expulsion. A copy of this recommendation and any attendant documentation shall also be provided to the parent or guardian of the student involved.
- 2505.8 No more than five (5) school days after receiving the principal's findings, the Chancellor's designee shall either concur with or modify the recommended action. If a principal recommends expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the expulsion recommendation.
- 2505.9 In determining whether to propose an expulsion, the Chancellor's designee shall consider the factors enumerated in § 2500.
- 2505.10 If the Chancellor's designee does not concur with the recommended expulsion, he or she may propose other disciplinary action.
- 2505.11 If the Chancellor's designee concurs with the recommended expulsion, he or she shall immediately forward a written proposal for expulsion to the Office of Youth Engagement.

- 2505.12 Students and parents or guardians shall be provided written notice of all suspensions and expulsions as follows:
- (a) No student may be suspended or expelled without written notice.
 - (b) Following the oral notice provided to parents or guardians pursuant to § 2504.13 verifiable written notice (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed suspensions and expulsions must be provided to the parent or guardian or to the adult student no later than one school day after the decision by the principal or Chancellor's designee to authorize or propose suspension or expulsion. Both communications shall be conducted in the parent's native language or translated, when necessary.
 - (c) The notice must inform the parent or guardian that the Chancellor's designee will be advised of a proposed suspension or expulsion and that he or she ultimately has the authority to modify or rescind the disciplinary action. Adult students shall receive notification of their infraction in the same manner.
 - (d) The notice must also include a description of the infraction, a summary of the facts, the length of the proposed suspension or expulsion, the principal's recommendation for an educational plan or alternative educational setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § 2505.14.
 - (e) A student who has been given a notice of proposed expulsion may be immediately placed on suspension in accordance with the rules and procedures in this section.
- 2505.13 A student who has been suspended for fewer than eleven (11) days may appeal the suspension as follows:
- (a) A short-term suspension may be appealed to the principal.
 - (b) A medium-term suspension may be appealed to the Chancellor's designee.
 - (c) All appeals must be made by the student's parent or guardian or the adult student, in writing, no later than one (1) school day after receiving the notice of suspension.
 - (d) All appeals will be heard by the principal (for short-term suspensions) or the Chancellor's designee (for medium-term suspensions) no later than one school day after the appeal is requested.

- (e) The student and his or her parent or guardian may present evidence and ask witnesses to speak.
- (f) At the conclusion of the conference, the principal or Chancellor's designee, as appropriate, shall render a final decision.
- (g) No more than one (1) school day after the conference, the principal or Chancellor's designee, as appropriate, shall give the student and his or her parent or guardian, the Instructional Superintendent, and the Office of Youth Engagement a written summary of the conference proceedings, including the final decision.

2505.14 A student who has been suspended for eleven (11) days or more or who has been expelled has a right to a hearing pursuant to the procedures in § 2506.

2505.15 No more than one (1) school day after authorization or modification of a long-term suspension, the Chancellor's designee shall forward the recommended suspension to the hearing office for immediate scheduling and shall provide notice of the intent to schedule a hearing to the parent or guardian or adult student.

2505.16 The Office of Youth Engagement shall schedule a disciplinary hearing to take place no more than five (5) school days after receipt of the Chancellor's designee's proposal for expulsion. Disciplinary hearings shall be conducted pursuant to the rules and procedures for hearings set forth in § 2506.

2505.17 Once a hearing is scheduled, the student shall be placed on suspension, or in another appropriate placement until the conclusion of the hearing and appeals processes.

2506 PROCEDURES FOR DISCIPLINARY HEARINGS

2506.1 Disciplinary hearings shall be held at a time and place that is reasonably convenient to the student and parent or guardian.

2506.2 For medium- and long-term suspensions, the hearing shall be held not more than four (4) school days after a written notice regarding disciplinary action is provided to the parent or guardian or adult student, except that the hearing may be postponed for not more than five (5) school days upon the request of the adult student, minor student's parent or guardian, or his or her representative, where postponement of the hearing is necessary to prepare for the hearing, provide for the hearing, or provide for the attendance of necessary parties.

2506.3 For expulsions, the hearing shall be held not more than four (4) days after written notice of the Chancellor's Designee's proposal is given to the Office of Youth Engagement, except that the hearing may be postponed for not more than five (5)

school days upon the request of the adult student, minor student's parent or guardian, or his or her representative, where postponement of the hearing is necessary to prepare for the hearing, provide for the hearing, or provide for the attendance of necessary parties.

- 2506.4 The hearing shall be closed to the public unless the parent or guardian or adult student requests an open hearing.
- 2506.5 The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student.
- 2506.6 The student, parent or guardian, or representative shall have the opportunity to question any witness or challenge any documentary evidence.
- 2506.7 All proceedings shall be translated into the native language of the parent or guardian or student, including sign language.
- 2506.8 The parent or guardian or adult student shall have the opportunity to present testimony and documentary evidence, including the opportunity to call any witness to present testimony relevant to the disciplinary action or other school system recommendation. The right to call witnesses shall include the right to require the presence of any involved school official.
- 2506.9 It shall be the burden of the DCPS to show by a preponderance of the evidence that the student did commit the infraction(s) upon which the disciplinary action is based.
- 2506.10 The hearing officer shall ensure that all due process procedures have been followed or waived.
- 2506.11 The hearing officer may question any witness or party and shall examine all documentary evidence.
- 2506.12 The hearing shall not be conducted according to the rules of evidence. However, the hearing officer may exclude any testimony or evidence that is irrelevant or repetitive.
- 2506.13 The hearing officer shall ensure that the hearing is conducted in a fair and orderly manner and shall have the authority to exclude any party or other person from the hearing on the grounds of substantial interference or obstruction of the orderly hearing process.
- 2506.14 The hearing officer shall make an official electronic audio recording of the hearing, which shall constitute the official record thereof. Upon request, a copy of the recording shall be made available to the parent or guardian, adult student, , or representative and the local school principal. This provision shall not preclude

a parent or guardian or representative from also recording or transcribing the hearing at his or her expense.

2506.15 The principal or school official shall indicate a recommendation of the school system for the duration of the off-site placement.

2507 HEARING OFFICER RECOMMENDATION

2507.1 Within one school day of the conclusion of a disciplinary hearing, the hearing officer shall issue a written recommendation which shall include the following:

- (a) A statement of the facts, as determined from the testimony and evidence presented at the hearing;
- (b) A conclusion as to whether the required due process procedures have been properly followed or waived;
- (c) A conclusion as to whether the student committed the infraction(s) upon which the disciplinary action is based; and
- (d) A determination regarding the appropriateness of the proposed disciplinary action or an order for a modification thereof, including explicit justification for any recommended modification

2507.2 For medium- and long-term suspensions, the Chancellor's designee shall render a final decision no later than one school day after receiving the hearing officer's recommendation.

2507.3 For expulsions, the Office of Youth Engagement shall render a final decision no later than one school day after receiving the hearing officer's recommendation.

2507.4 A copy of the Chancellor's Designee's or Office of Youth Engagement's written determination and conclusions of law shall be given or mailed, within twenty-four (24) hours, to the adult student, the minor student's parent or guardian, and their representatives, if any.

2507.5 Additional copies of the Chancellor's designee's or Office of Youth Engagement's determination shall be sent, within twenty-four (24) hours, to the principal or other school official in charge of the school or program in which the student is enrolled, and, retained in the files of the student hearing office.

2507.6 If the hearing officer recommends disciplinary action is not warranted, based on the fact that the student did not violate any DCPS rule or policy, the determination shall include an order to destroy all school records regarding the disciplinary action, including any reports that relate to the incident upon which the

disciplinary action was proposed, insofar as those reports individually identify the student. If the hearing officer determines that disciplinary action is not warranted and either: (a) fails to state whether a DCPS rule or policy was violated, or, (b) states that a DCPS rule or policy was violated but nevertheless finds the disciplinary action to be unwarranted, the school may maintain documents concerning the alleged infraction until the conclusion of the school year immediately following the incident.

- 2507.7 If the Chancellor's designee has authorized and proposed expulsion for violating the Gun-Free Schools Act, the parent or guardian or adult student may appeal the decision of the Office of Youth Engagement to the Chancellor pursuant to the process outlined in § 2506.16. The decision of the Chancellor shall be final and shall be provided to the parent or guardian, or adult student, Chancellor's designee, and the principal of the school from which the student was expelled.
- 2507.08 Notwithstanding the other provisions of this section, the Chancellor's designee may, at his or her discretion, initiate expulsion action without the recommendation of a principal or designee.
- 2507.09 Proposed expulsion may be appealed directly to the Chancellor.
- 2507.10 A parent or guardian, or adult student who wishes to appeal a proposed expulsion directly to the Chancellor must submit a written request to appeal the proposal within one (1) school day of receiving notification of the expulsion.
- 2507.11 Upon receipt of an appeal, the Chancellor or his/her designee shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the written appeal request.
- 2507.12 During the conference, the parent or guardian, or adult student, may present evidence and witnesses in support of his or her appeal.
- 2507.13 No more than two (2) school days after the conclusion of the conference, the Chancellor shall render a final decision. The Chancellor shall provide the parent or guardian, or adult student, the Instructional Superintendent, and the Office of Youth Engagement a written summary of the conference proceedings and his or her final decision.

2508 REVIEW BY THE CHANCELLOR

- 2508.1 The Chancellor may review, at his or her discretion, all proposed disciplinary actions. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from

the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.

- 2508.2 With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including expulsion.

2509 RE-ENTRY FOLLOWING EXPULSION

- 2509.1 At the conclusion of an expulsion (one calendar year), the Chancellor's designee shall hold a conference to determine appropriate school placement for the student.

- 2509.2 The conference shall be held according to guidelines in § 2505, and shall include discussion of the following topics:

- (a) The student's activities while under disciplinary action;
- (b) The steps the student will take to avoid a subsequent disciplinary action;
- (c) Support required by the student to avoid subsequent disciplinary action;
and
- (d) Any other pertinent circumstances.

- 2509.3 Effort shall be made to return the student to his or her previous school, unless the Chancellor's designee reasonably concludes based on the conference that another school is a more appropriate setting.

- 2509.4 The student and his or her parent or guardian shall be informed of the school placement no more than one school day after the conference, and the registration/enrollment process shall be facilitated as smoothly and quickly as possible thereafter.

- 2509.5 The principal of the receiving school shall ensure the returning student receives an appropriate academic program, as well as services to ensure a smooth transition back into the general school population (e.g., SST meeting, counseling, etc.).

2510 PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY

- 2510.1 Nothing herein shall exempt a student with a disability from disciplinary action.

- 2510.2 In initiating disciplinary procedures applicable to all children, DCPS must ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. Such documentation may include, but not be limited to (with any required permission from parent/guardian): the student's current IEP, discipline file, cumulative file,

anecdotal records from teachers or other school personnel, reports or recommendations from health or mental health clinicians.

- 2510.3 The removal of a student with a disability from his or her current placement for more than ten (10) school days for disciplinary reasons shall require that a determination be made as to whether the subject behavior is related to the student's disability.
- 2510.4 If the result of the review is a determination that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities
- 2510.5 DCPS may order an immediate removal of a student with a disability from his or her current placement:
- (a) To an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent such alternatives would be applied to children without disabilities); and
 - (b) To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, up to but not exceeding forty-five (45) days if:
 - (1) The student carries a weapon to school or to a school function;
 - (2) The student knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance while at school or at a school function; or
 - (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction DCPS.
- 2510.6 DCPS must make a free appropriate public education available to all eligible children with disabilities, including children with disabilities who have been suspended or expelled from school. When a student with a disability is removed from his or her current placement for more than ten (10) school days for disciplinary reasons, DCPS must continue to provide the specialized instruction and related services that are specified on the student's IEP.
- 2510.7 Any interim alternative educational setting in which a child is placed must:

- (a) Be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and
- (b) Include services and modifications designed to address the behavior described in § 2510.2 or § 2510.3 so that it does not recur.

2510.8 If a disciplinary action is contemplated as described in § 2510.2 or § 2510.3 for a behavior of a child with a disability described in either of those subsections, or if a proposed disciplinary action involves removal of a student with a disability from his or her current placement for more than ten (10) consecutive school days:

- (a) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and of all procedural safeguards accorded by law; and
- (b) Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

2510.9 Within ten (10) school days of any disciplinary decision to remove a student with a disability from his or her current placement, DCPS, the parent, and relevant members of the child's IEP Team (as determined by the parent and the DCPS) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- (b) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

2510.10 The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either 34 CFR 300.530(e)(1)(i) or (1)(ii) was met.

2510.11 If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in 34 CFR 300.530(e)(1)(ii) was met, the LEA must take immediate steps to remedy those deficiencies.

2510.12 In carrying out a review, the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team:

- (a) First considers, in terms of the behavior subject to disciplinary action, all relevant information, including:
 - (1) Evaluation and diagnostic and results, or other relevant information supplied by the parents of the child;
 - (2) Observations of the child;
 - (3) The child's IEP and placement; and
 - (4) Any other material deemed relevant by the IEP Team, including, but not limited to, school progress reports, anecdotal notes and facts related to disciplinary action taken by administrative personnel; and
- (b) Then determines that:
 - (1) In relationship to the behavior subject to disciplinary action, the child's IEP, and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
 - (2) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
 - (3) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

2510.13 Either before or not later than ten (10) consecutive school days after taking a disciplinary action described in § 2510.2:

- (a) If DCPS did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described above, DCPS must convene an IEP meeting to develop an assessment plan to address that behavior; or

2510.14 If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.

- 2510.15 DCPS must arrange for an expedited hearing, which must occur within twenty (20) school days of the date the complaint requesting the hearing is filed, in any case described in this section when requested by a parent.
- 2510.16 In reviewing a decision with respect to the manifestation determination, the hearing officer must determine whether DCPS has demonstrated that the child's behavior was not a manifestation of such child's disability.
- 2510.17 A disciplinary hearing officer may recommend the removal of a student with a disability from his or her current placement for not more than forty-five (45) days if the hearing officer:
- (a) Determines that DCPS has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;
 - (b) Considers the appropriateness of the child's current placement;
 - (c) Considers whether DCPS has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
 - (d) Determines that the interim alternative educational setting meets the requirements described in § 2510.14 below.
- 2510.18 In recommending the removal of a student with a disability from his or her current placement removal of a student with a disability from his or her current placement to an alternative education setting for disciplinary reasons, the hearing officer must apply the standards set out in § 2510.17 above.
- 2510.19 When a parent requests a hearing regarding a disciplinary action to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in § 2510.2 (i.e., 45 days), whichever occurs first, unless the parent and DCPS agree otherwise.
- 2510.20 If a child is in an interim alternative educational setting for disciplinary reasons and school personnel propose to change the child's educational placement after expiration of the interim alternative setting for disciplinary reasons, during the pendency of any proceeding to challenge the proposed change in placement, the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in § 2510.21, below.
- 2510.21 If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education

setting) during the pendency of the due process proceedings, DCPS may request an expedited hearing.

2510.22 A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of DCPS, including any behavior described in this chapter, may assert any of the applicable protections provided for in the Individuals with Disabilities Education Improvement Act, as amended, if DCPS had knowledge (as determined in accordance with § 2510.23 below), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

2510.23 DCPS is deemed to have knowledge that a child is a child with a disability if:

- (a) The parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to to supervisory or administrative personnel of [DCPS], or a teacher of the child, that the child is in need of special education and related services;
- (c) The parent of the child has requested an evaluation of the child; or
- (d) The teacher of the child or other personnel of DCPS has expressed specific concerns about a pattern of behavior or performance of the child to the Director of Special Education or to other DCPS personnel.

2510.24 DCPS is deemed not to have knowledge that a child is a child with a disability if: the parent of the child has not allowed an evaluation of the child pursuant to 34 CFR 300.300 through 300.311 or has refused services under Part B of the IDEA; or the child has been evaluated in accordance with 34 CFR 300.300 through 300.311 and determined to not be a child with a disability under Part B of the IDEA.

2510.25 If DCPS does not have knowledge that a child is a child with a disability in accordance with § 2510.23 prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

2510.26 If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by DCPS and information provided by parents, DCPS must provide special education and related services in accordance with the relevant provisions of the Individuals with Disabilities Education Improvement Act, as amended,

except that, pending the results of the evaluation, the child must remain in the educational placement determined by school authorities.

2510.27 Nothing in the Individuals with Disabilities Education Improvement Act, as amended, shall be construed to prevent D.C. law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

2510.28 Nothing in the Individuals with Disabilities Education Improvement Act, as amended, shall be construed to prohibit DCPS from reporting a crime committed by a child with a disability to appropriate authorities. In reporting a crime committed by a child with a disability to appropriate authorities, DCPS must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to which it reports the crime.

2599 DEFINITIONS

2599.1 Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

“Alternative setting” - an educational program other than that in which the student was placed prior to disciplinary action.

“Academic dishonesty” - any conduct that unfairly influences academic outcomes including:

- (a) Plagiarism including the adoption or reproduction of ideas, words, or statements of another person or source without giving acknowledgment or credit to the person or source;
- (b) Cheating including any attempt to give or obtain assistance in with a test or examination, without permission or acknowledgment;
- (c) Deception including giving false information to instructional staff— for example, a student giving a false excuse for missing a deadline or making a false claim that assignment was submitted;
- (d) Fabrication including altering data, information, and documents affecting any student’s academic records; forging signatures of authorized instructional staff or falsifying information on an

official school document, i.e. report card, letter of permission, petition, class schedule, ID card, or any other official school document;

- (e) Sabotage including creating situations to prevent others from completing their work. For example, destroying another student's work or tampering with the experiments of other students; and
- (f) Unauthorized Access including gaining unauthorized access to computer systems, academic or administrative records and information; viewing or altering any records; modifying computer programs or systems; or releasing or distributing information gained through unauthorized access.

“Acts of exceptional misconduct” - any activity that would constitute a felony or misdemeanor under District or federal law

“Assault” - being physically violent, using unwarranted force, or demonstrating a deliberate and immediate intent to be physically violent towards another. Assault does not include: 1) incidental touching unless it is flagrant, purposeful, repeated, or results in the threat of imminent harm; or 2) self-defense or the defense of someone else who is being assaulted if the force used in defense is reasonable in response to the assault.

“Distribution” - the transfer to any other person, with or without the exchange of money or other valuables.

“DCPS” - means the District of Columbia Public Schools.

“Disruptive conduct” - flagrantly and substantially interfering with teaching or learning in the classroom, school activities, or extracurricular activities. Disruptive conduct includes, but it is not limited to engaging in behavior that passes beyond the limits of mutual teasing or normal age or developmentally appropriate play.

“Elementary” – grades preK-grade 5

“Expulsion” - the denial of the right of a student to attend any DCPS School or program, including all classes and school activities, except DCPS alternative settings, for one (1) calendar year.

“Extortion” or “blackmail” - obtaining, or attempting to obtain, money or property from another person, with or without that person's consent, induced by wrongful use of force or intimidation, or the threat thereof.

“False alarm” - triggering a fire alarm or initiating a report of fire or emergency without valid cause, or accessory to this offense.

“Fighting” - engaging in or provoking physical contact involving anger or hostility. Fighting includes, but is not limited to, the following:

- (a) Engaging in mutual physical contact involving anger or hostility;
- (b) Teasing, harassing, threatening or intimidating others in a manner that results in physical contact involving anger or hostility;
- (c) Physical retaliation for teasing, harassing, threatening, or intimidating behavior; or
- (d) Verbally inciting or physically supporting a fight through one’s encouragement or presence.

“Forgery” - forging signatures on notes or letters from parents, guardians, teachers, staff members, or office personnel; or the falsification of travel plans or sign-out designations.

“Gambling” - playing cards, dice, or games of chance for money or other things of value.

“Gang” - a group of individuals that are involved in illegal, intimidating or harassing conduct.

“Gun-Free Schools Act” – Federal law requiring states to have a law in place requiring the expulsion of a student who is found to have brought a firearm to school, 20 U.S.C. § 7151.

“Hazing” - actions taken against a person for the purpose of being initiated into a group that endangers the mental or physical health, well being or safety of a student, and results in humiliation, embarrassment, ridicule, intimidation or shame.

“Harassment” - engaging in intentional written, verbal, or physical bullying, intimidating, or harassing conduct that is for the purpose of embarrassing or denigrating another person, physically harming a person or damaging the person’s property in a manner that is severe, persistent, or pervasive and creates an intimidating or threatening educational environment that has the effect of substantially interfering with the student’s education or adult’s right to teach or manage student behavior, or has the effect of substantially disrupting the orderly operation of the school. Harassment also includes written or verbal communications that are electronically transmitted with the intention of creating or causing the same harm described above.

“Inappropriate use of DCPS computer or network”- includes, but is not limited to, the following:

- (a) Viewing inappropriate Internet sites, e.g., pornography;
- (b) Downloading pornography or any other internet material that is obscene, lewd, profane, vulgar, offensive, sexually oriented, or material that is wholly inconsistent with the fundamental values of public school education;
- (c) Installing, storing, or distributing copyrighted software or materials on DCPS computers without proper authorization; or
- (d) Inappropriately using e-mail or other internet communications from DCPS computers, such as to harass or harm others.

“Intentional misuse of school equipment/supplies/facilities” - deliberately misusing school equipment, supplies, or facilities, including failure to follow safety rules.

“Long-term suspension” – suspension for eleven (11) to ninety (90) school days.

“Medium-term suspension” – suspension for six (6) to ten (10) school days.

“Possession” - knowingly carrying or having an item on one’s person, or exercising control over an item, that is prohibited from being on school grounds, that is either in the possession of a third-party or has been intentionally placed in a location on or near school property for the purpose of disposing of the item or retrieving the item at a future time.

“Secondary” - grade 6 or higher.

“Self-defense” - defensive behavior that occurs while an assault is being inflicted on oneself or another, and is not more forceful than absolutely needed to deflect the violence suffered and prevent continuing injury or harm to oneself or the other person. Examples of self-defense are deflecting blows without returning them and holding or holding back an attacker to keep him/her from continuing to assault. Defensive behavior that is considerably more forceful than needed for legitimate self-defense may be considered assault.

“Sexual act” - any sexual act committed among two consenting of both parties.

“Sexual harassment” - deliberately harassing another person for sexual reasons or in a sexualized manner with unwanted attention, touching, or verbal comments such that the person is uncomfortable, intimidated, or threatened by the behavior.

“Short-term suspension” – on-site or off-site suspension for one (1) to five (5) school days for secondary students or one (1) to three (3) school days for elementary students.

“Suspension” - the denial of the right of a student to attend any DCPS school or program, including all classes and school activities, except in an approved alternative setting, in no event exceeding ninety (90) school days pursuant to the provisions of this chapter.

“Threat” - the communication of an intention to intimidate, harass or inflict violence, harm or terror on an individual or group of individuals, directly or indirectly, whether by physical, verbal, written, telephone, or electronic actions, which cause the other person to believe his or her life or safety, or property, is in danger.

“Trespassing” - being present on school property without permission of school authorities. This includes entering any school district property, except an approved alternative setting, while serving an off-site suspension or expulsion or attending any school function at any location while serving a suspension or expulsion in contravention of § 2504.6.

“Use”– when referring to alcohol, marijuana or other illegal drugs, or prescription medication, means a finding, based on reasonable evidence, that a student was found to have consumed such substances without proper authorization, or that a student was found, based on reasonable evidence, to be or have been under the influence of same while under the jurisdiction of DCPS authority.

Comments on this rule should be submitted, in writing, to Michelle Rhee, Chancellor, DCPS, at 825 North Capitol Street, NE, 9th Floor, Washington, DC, 20002, within forty-five (45) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

REVISED NOTICE OF PROPOSED RULEMAKINGFORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES

1. On October 3, 2008, the Public Service Commission of the District of Columbia (“Commission”) published a Notice of Proposed Rulemaking (“NOPR” or “Notice”) in the *D.C. Register*.¹ The Notice advised the public of the Commission’s intent to amend Chapter 29 of Title 15 DCMR² and act upon a proposed Affidavit of Environmental Compliance, allowing for self-certification of environmental compliance, as well as a proposed Electricity Supplier Annual Compliance Report Form for the District of Columbia’s Renewable Energy Portfolio Standard (“RPS”) Program. The Notice inadvertently omitted five (5) of the six (6) pages of the Electricity Supplier Annual Compliance Report Form. This Revised NOPR includes all six (6) pages of that form and supersedes the original NOPR in its entirety.³ The Commission gives notice, pursuant to Section 2-505 of the District of Columbia Official Code, of its intent to amend Chapter 29 and act upon the above-referenced Affidavit and Electricity Supplier Annual Compliance Report Form, in not less than thirty (30) days from the publication of this Revised NOPR in the *D.C. Register*.

2. Currently, Section 2902.6 states:

2902.6 In addition to the information required in § 2902.5, an applicant submitting a Regular Application must also attach:

- (a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed;
- (b) A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than 1.0 MW;
- (c) A Certificate of Authorization to Conduct Business in the District of Columbia, if applicable;
- (d) An Affidavit of General Compliance;

¹ 55 *D.C. Reg.* 10174-10179 (Oct. 3, 2008).

² Chapter 29, entitled “Renewable Energy Portfolio Standard,” contains the Commission’s regulations implementing the requirements of the District of Columbia’s Renewable Energy Portfolio Standard (“RPS”) Act, D.C. Official Code §§ 34-1431 *et seq.* (2008 Supp.).

³ The proposed Electricity Supplier Annual Compliance Report Form replaces the interim form used for the 2007 reporting year by retail electricity suppliers in the District of Columbia.

- (e) Documentation of authority to sign on behalf of the Applicant; and
- (f) An Affidavit of Environmental Compliance from the state where the facility is located.

The proposed amended Section 2902.6 shall state:

2902.6 In addition to the information required in § 2902.5, an applicant submitting a Regular Application must also attach:

- (a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed;
- (b) A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than 1.0 MW;
- (c) A Certificate of Authorization to Conduct Business in the District of Columbia, if applicable;
- (d) An Affidavit of General Compliance;
- (e) Documentation of authority to sign on behalf of the Applicant; and
- (f) An Affidavit of Environmental Compliance, if the rated capacity is greater than 10 kW.

3. The proposed amendment to Chapter 29 of the Commission's rules, as previously indicated, will allow applicants to file a self-certified Affidavit of Environmental Compliance, where previously applicants were required to file an Affidavit of Environmental Compliance from the state where the facility is located. Providing a standard format for self-certification will allow for uniform and complete submissions. Accordingly, the proposed self-certified Affidavit of Environmental Compliance is attached to this Notice.

4. In addition, consistent with Commission Rule 2901, each Electricity Supplier is required to file an annual RPS Compliance Report for the previous calendar year by May 1.⁴ By Order issued April 10, 2008, the Commission adopted the Electricity Supplier Compliance Report Form for the District of Columbia's RPS Program for the 2007 reporting year.⁵ The Commission also indicated that given the rather detailed Electricity Supplier reporting requirements under the District of Columbia's RPS Act, providing a standard reporting format for the RPS Compliance Report should reduce the administrative burden on suppliers.⁶

⁴ Commission Rule 2901, 55 D.C. Reg. at 562-4 (to be codified at 15 DCMR 2901).

⁵ *Formal Case No. 945, In The Matter Of The Investigation Into Electric Service Market Competition And Regulatory Practices*, Order No. 14782, rel. April 10, 2008 ("Order No. 14782").

⁶ Order No. 14782 at 1.

5. Finally, the Commission indicated that it would provide interested persons with an opportunity to comment on a proposed standard reporting format for the RPS Compliance Reports to be used in future years, starting with the 2008 Compliance Report due May 1, 2009, in a Notice of Proposed Rulemaking to be published at a later date.⁷ Consistent with that directive, the proposed Electricity Supplier Compliance Report Form for the District of Columbia's RPS Program is attached to this Notice.⁸

6. Comments on the proposed amendments to Chapter 29, the proposed Affidavit of Environmental Compliance, and the proposed Compliance Report Form must be made in writing to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., Suite 200, West Tower, Washington, DC 20005. In addition, interested persons should direct any questions or inquiries regarding this Revised NOPR by writing to Ms. Wideman at the above address or by calling Ms. Wideman at (202) 626-5150. Copies of the Revised NOPR may be obtained, at cost, by writing the Commission Secretary at the above address or on the Commission's website at www.dcpSC.org. All comments must be received within 30 days of the date of publication of the Revised NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days after the date of publication of the Revised NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action.

⁷ Order No. 14782 at 2.

⁸ The attached Electricity Supplier Compliance Report Form is a hardcopy of a Microsoft Excel file. Pursuant to the Clean and Affordable Energy Act of 2008, D.C. Law 17-250, the Compliance Report Form reflects: 1) an increase in the solar compliance fee rate per MWH from \$300 in 2008 to \$500 starting in 2009; 2) an increase in the Tier I compliance fee rate from \$25 to \$50 per MWH beginning with the 2008 compliance year; 3) a change in the RPS requirements beginning in 2011; and 4) a requirement that suppliers first acquire solar Renewable Energy Credits ("RECs") from District-based systems interconnected to the grid before seeking RECs from other jurisdictions.

AFFIDAVIT OF ENVIRONMENTAL COMPLIANCE

Name of Renewable Energy Facility ("Facility"):

Facility address:

Renewable resource used:

Contact person for the facility ("Contact") – include name, address (if different from above), phone number, and e-mail address:

Confirmation of Compliance or Non-Compliance with Environmental Requirements
(Check either (a) or (b)):

(a) ____ The Facility complies with all applicable state and federal environmental requirements, including obtaining or renewing all applicable state and federal environmental permits. In addition, this Facility has not experienced any major environmental violations during the preceding year.

(b) ____ The Facility does not comply with all applicable state and federal environmental requirements.

Major environmental violations¹ (Check either (a) or (b)):

(a) ____ The Facility has not experienced any major environmental violations during the preceding year.

(b) ____ The Facility has experienced a major environmental violation during the preceding year.²

¹ A major environmental violation is one that causes significant harm to the environment or public health and results in a compliance order or penalty.

² If a major environmental violation did occur, please provide a detailed explanation of the violation, including the date of the violation and the date it was remedied. Please provide the name of a contact person at the appropriate state or federal environmental agency.

Please list all Federal and State Environmental Permits for the facility, including permit number, date authorized, expiration date, and agency contact.

<u>Permit Type</u>	<u>Permit Number</u>	<u>Date Authorized</u>	<u>Expiration Date</u>	<u>Agency Contact</u>

_____, (Name of Officer/Affiant), being duly sworn/affirmed according to law, deposes and says that:

He/she is the _____ (Title of Officer/Affiant) of _____ (Name of Renewable Energy Facility);

That he/she is authorized to and does make this affidavit for said Facility.

That _____ (Name of Officer/Affiant) herein certifies to the Public Service Commission of the District of Columbia under penalty of perjury that:

The Officer/Affiant acknowledges that any change in compliance status constitutes a change of information, notice of which by Officer/Affiant is required to be filed with the Public Service Commission immediately.

The Officer/Affiant further certifies that he/she has personally examined and is familiar with all foregoing information, including any attachments and appendices, and further certifies that information to be true, correct, and complete.

Signature of Officer/Affiant

Sworn and Subscribed Before Me this _____ day of _____.

Signature of Official Administering Oath

My Commission Expires: _____

Electricity Supplier Annual Compliance Report - DC RPS Program

Enter the appropriate figures into the following tables:

		MWh	Percent Required
Total Retail Electricity Sales	Block 1		
Total Exempt Electricity Sales	Block 2		-
Compliance Total	Block 3		-
Solar REC Obligation	Block 4		-
Tier I REC Obligation	Block 5		
Tier II REC Obligation	Block 6		

Enter Compliance Year:

- Block 1
Block 2
Block 3
Block 4
Block 5
Block 6

Enter total retail electricity sales for the compliance year.

Enter quantity of any exempt retail electricity sales to a customer with a renewable on-site generator.

Compliance total, Block 3 = Block 1 – Block 2.

Tier I Solar REC obligation, Block 4 = Block 3 * Compliance Year Percentage for Solar Energy.

Tier I REC obligation, Block 5 = Block 3 * Compliance Year Percentage for Tier I.

Tier II REC obligation, Block 6 = Block 3 * Compliance Year Percentage for Tier II.

Complete Block 1 and Block 2 and enter the Compliance Year. Blocks 3, 4, 5, and 6 will be calculated based on your entries.

Electricity Supplier Annual Compliance Report - DC RPS Program
Compliance Year

Total number of Tier I Solar REC's retired for solar energy compliance; (attach additional duplicate pages if necessary and list Page number here Page ____ of ____)

Solar REC's Used for Compliance					
Number of REC's	DC Certification Number (DC-____-____-____)	Gen. Date (Mon/Yr)	% Credit¹	REC Credit²	Tier I/Solar REC Price
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
			110%		
Solar REC's Used for Compliance			Block 7		

¹ % Credit applies to fuel sources where additional credit is applicable to a renewable resource pursuant to D.C. Official Code § 34-1433.

² REC Credit is the number of REC's multiplied by the % Credit.

Fill in the appropriate information in the highlighted yellow blocks. Other blocks will be calculated from the input data.
 Enter the number of REC's, DC Certification Number associated with the REC's, the date of generation, and the price per REC.

Block 7 Total amount of Solar REC's will be calculated based on the entries.

An electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from solar energy systems interconnected to the distribution grid serving the District of Columbia. Only after an electricity supplier exhausts all opportunity to meet this requirement that the solar energy systems be connected to the grid within the District of Columbia can that supplier obtain renewable energy credits from jurisdictions outside the District of Columbia.

Electricity Supplier Annual Compliance Report - DC RPS Program
Compliance Year

Total number of Tier I RECs retired for Tier I compliance, other than Tier I Solar RECs; (attach additional duplicate pages if necessary and list Page number here Page ____ of ____)

[illegible]

1 % Credit applies to fuel sources where additional credit is applicable to a renewable resource pursuant to D.C. Official Code § 34-1433.

2 REC Credit is the number of RECs multiplied by the % Credit.

Fill in the appropriate information in the highlighted yellow blocks. Other blocks will be calculated from the input data.
Enter the number of RECs, DC Certification Number associated with the RECs, the date of generation, and the price per REC.
Do not enter any Tier I Solar RECs in this worksheet.

Block 8 Total amount of Tier I REC Credit (not including any Tier I Solar RECs) will be calculated based on the entries.

Electricity Supplier Annual Compliance Report - DC RPS Program
Compliance Year

Total number of Tier I or Tier II RECs retired for Tier II compliance; (attach additional duplicate pages if necessary and list Page number here
Page ____ of ____)

[illegible]

¹ % Credit applies to fuel sources where additional credit is applicable to a renewable resource pursuant to D.C. Official Code § 34-1433.

² REC Credit is the number of RECs multiplied by the % Credit.

Fill in the appropriate information in the highlighted yellow blocks. Other blocks will be calculated from the input data.

Enter the number of RECs, DC Certification Number associated with the RECs, the date of generation, and the price per REC.

Block 9 Total amount of Tier II REC Credit will be calculated based on the entries.

An electricity supplier may not use the incineration of solid waste to meet more than 20% of the standard for tier two renewable sources for a given year. See D.C. Official Code § 34-1433(g)(1).

**Electricity Supplier Annual Compliance Report - DC RPS Program
Compliance Year**

Electricity Supplier:

Point of Contact:

Title:

Address:

Phone:

E-mail:

Fax:

Compliance Fee Report:

Solar		
Solar RECs Used for Compliance		Block 10
Solar Energy Compliance Amount		from Block 4
Shortfall of Solar RECs		Block 11
Solar REC Compliance Fee Rate	(\$300 in 2008, \$500 in 2009 to 2018)	\$/MWH
Solar Energy Compliance Fee		Block 12

Tier I		
Tier I RECs Used for Compliance		Block 13
Tier I Compliance Amount		from Block 5
Shortfall of Tier I RECs		Block 14
Tier I Compliance Fee Rate	\$50	\$/MWH
Tier I Compliance Fee		Block 15

Tier II		
Tier 1 or Tier II RECs Used for Compliance		Block 16
Tier II Compliance Amount		from Block 6
Shortfall of Tier II RECs		Block 17
Tier II Compliance Fee Rate	\$10	\$/MWH
Tier II Compliance Fee		Block 18

Total Compliance Fee Due		Block 19
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Enter the supplier contact information in the yellow highlighted area above. In addition, this worksheet only requires entries for Blocks 10, 13, and 16. The other sections will be calculated based on the entries.

Block 10 Enter the sum of all Solar RECs reported previously for Block 7.
Block 11 Shortfall amount for Solar REC compliance, Block 11 = Block 4 - Block 10
Block 12 Compliance Fee Due for the Solar Energy Obligation.
 Block 12 = Block 11 * (\$300 in 2008 and \$500 in 2009 until 2018)
Block 13 Enter the sum of all Tier I RECs reported previously for Block 8 plus Block 10,
 Block 13 = Block 8 + Block 10.
 Block 13 combines the solar RECs with all other reported Tier I RECs.
Block 14 Shortfall amount for Tier I REC compliance, Block 14 = Block 5 - Block 13
Block 15 Compliance Fee Due for the Tier I Obligation.
 Block 15 = Block 14 * \$50
Block 16 Enter the sum of all Tier II RECs reported previously for Block 9.
Block 17 Shortfall amount for Tier II REC compliance, Block 17 = Block 6 - Block 16
Block 18 Compliance Fee Due for the Tier II Obligation
 Block 18 = Block 17 * \$10
Block 19 Total Compliance Fee Due.
 Block 19 = Block 12 + Block 15 + Block 18

REPS Requirements

Year	Tier I	Tier II	Solar
2007	1.5%	2.5%	0.005%
2008	2.0%	2.5%	0.011%
2009	2.5%	2.5%	0.019%
2010	3.0%	2.5%	0.028%
2011	4.0%	2.5%	0.040%
2012	5.0%	2.5%	0.070%
2013	6.5%	2.5%	0.100%
2014	8.0%	2.5%	0.130%
2015	9.5%	2.5%	0.170%
2016	11.5%	2.0%	0.210%
2017	13.5%	1.5%	0.250%
2018	15.5%	1.0%	0.300%
2019	17.5%	0.5%	0.350%
2020	20.0%	0.0%	0.400%

Pursuant to D.C. Official Code § 34-1433:

(a) Energy from a tier one renewable source:

- (1) Shall be eligible for inclusion in meeting the standard regardless of when the generating system or facility was placed in service; and
- (2) May be applied to the percentage requirements of the standard for either tier one renewable sources or tier two renewable sources.

(b) Energy from a tier two renewable source shall be eligible for inclusion in meeting the renewable energy portfolio standard through 2017 if it is generated at a system or facility that existed and was operational as of January 1, 2004.

(c) On or after January 1, 2006, an electricity supplier may:

- (1) Receive renewable energy credits; and
- (2) Accumulate renewable energy credits under this chapter.

(d) On or before December 31, 2006, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind or solar sources.

(e) After December 31, 2006, and on or before December 31, 2009, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from wind or solar sources.

(f) On or before December 31, 2009, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane.

(g)(1) An electricity supplier may not use the incineration of solid waste to meet more than 20% of the standard for tier two renewable sources for a given year.

(2) After December 31, 2012, the incineration of solid waste shall not be eligible to generate renewable energy credits.